

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JONATHAN WELLS,

§

Plaintiff,

§

v.

CASE NO. 1:20-cv-01203-LF-SCY

MIDWEST RECOVERY SERVICES,
LLC and JOHN DOES 1-25,

§

Defendants.

§

DEFENDANT MIDWEST RECOVERY SERVICES, LLC'S ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant MIDWEST RECOVERY SERVICES, LLC (“MRS”), by and through its undersigned counsel, and files its Answer to Plaintiff’s Complaint as follows:

INTRODUCTION

1. MRS denies Paragraph 1 as it is an incomplete and inaccurate statement of law.

2. MRS denies Paragraph 2 as it is an incomplete and inaccurate statement of law.

JURISDICTION AND VENUE

3. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 3; therefore, MRS denies the same.

4. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 4; therefore, MRS denies the same.

NATURE OF THE ACTION

5. MRS admits that Plaintiff brings suit pursuant to the Fair Debt Collections Practices Act (“FDCPA”). However, MRS denies that it has committed any violation of the FDCPA against Plaintiff as alleged.

6. MRS admits that Plaintiff is seeking damages and declaratory relief. However, MRS denies that Plaintiff is entitled to such relief.

PARTIES

7. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 7; therefore, MRS denies the same.

8. MRS admits that it, at times, acts as a “debt collector” as defined by the FDCPA. However, MRS lacks knowledge or information sufficient to form a belief as to whether it acted as a “debt collector” as defined by the FDCPA in this matter and therefore denies Paragraph 8.

9. MRS admits that it, at times, acts as a “debt collector” as defined by the FDCPA. However, MRS lacks knowledge or information sufficient to form a belief as to whether it acted as a “debt collector” as defined by the FDCPA in this matter and therefore denies Paragraph 9.

10. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 10; therefore, MRS denies the same.

CLASS ALLEGATIONS

11. MRS admits that Plaintiff seeks to certify a class. MRS denies that this case is proper for class certification.

12. MRS denies Paragraph 12. MRS further denies that this case is proper for class certification.

13. MRS denies Paragraph 13. MRS further denies that this case is proper for class certification.

14. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 14; therefore, MRS denies the same.

15. MRS denies Paragraph 15. MRS further denies that this case is proper for class certification.

16. MRS denies Paragraph 16. MRS further denies that this case is proper for class certification.

17. MRS denies Paragraph 17. MRS further denies that this case is proper for class certification.

18. MRS denies Paragraph 18. MRS further denies that this case is proper for class certification.

19. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 19; therefore, MRS denies the same.

FACTUAL ALLEGATIONS

20. MRS incorporates the responses above as if fully set forth herein.

21. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 21; therefore, MRS denies the same.

22. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 22; therefore, MRS denies the same.

23. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 23; therefore, MRS denies the same.

24. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 24; therefore, MRS denies the same.

25. MRS admits Paragraph 25.

26. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 26; therefore, MRS denies the same.

27. MRS admits Paragraph 27.

28. MRS denies Paragraph 28 as it is not a complete or accurate representation of the letter in its entirety.

29. MRS denies Paragraph 29.

30. MRS denies Paragraph 30.

31. MRS denies Paragraph 31.

32. MRS denies Paragraph 32 as it is an incomplete and inaccurate statement of law.

33. MRS denies Paragraph 33 as it is not a complete or accurate representation of the letter in its entirety.

34. MRS lacks knowledge or information sufficient to form a belief about the truth of Paragraph 34; therefore, MRS denies the same.

35. MRS denies Paragraph 35.

36. MRS denies Paragraph 36 as it is an incomplete and inaccurate statement of law.

37. MRS denies Paragraph 37.

38. MRS denies Paragraph 38.

39. MRS denies Paragraph 39.

COUNT I

40. MRS incorporates the responses above as if fully set forth herein.

41. MRS denies Paragraph 41.

42. MRS denies Paragraph 42 as it is an incomplete and inaccurate statement of law.

43. MRS denies Paragraph 43.

44. MRS denies Paragraph 44.

COUNT II

45. MRS incorporates the responses above as if fully set forth herein.

46. MRS denies Paragraph 46.

47. MRS denies Paragraph 47 as it is an incomplete and inaccurate statement of law.

48. MRS denies Paragraph 48.

49. MRS denies Paragraph 49.

COUNT III

50. MRS incorporates the responses above as if fully set forth herein.
51. MRS denies Paragraph 51.
52. MRS denies Paragraph 52 as it is an incomplete and inaccurate statement of law.
53. MRS denies Paragraph 53.

JURY DEMAND

54. MRS admits that Plaintiff requests a jury trial.

PRAYER FOR RELIEF

55. MRS denies that Plaintiff is entitled to any relief sought.

AFFIRMATIVE DEFENSES

56. Any violation, if it occurred, was the result of a bona fide error.
57. Plaintiff's damages, if any, are the result of the actions of third parties over whom MRS has no control.
58. Plaintiff's damages, if any, were pre-existing damages not caused by MRS.

59. Plaintiff has failed to mitigate damages, if any.
60. Plaintiff proximately caused his own damages, if any.
61. Plaintiff has not suffered a concrete, injury-in-fact.

WHEREFORE, PREMISES CONSIDERED, MRS respectfully prays that Plaintiff take nothing herein, that MRS be dismissed with their costs, and all other and further relief, at law or in equity, to which MRS may be justly entitled.

Respectfully submitted,

Madison, Mroz, Steinman,
Kenny & Olexy, P.A.

By: /s/ Gregory D. Steinman
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded via CM/ECF system to all parties entitled to notice of the same on this 4th day of January, 2021.

/s/Gregory D. Steinman
Madison, Mroz, Steinman, Kenny & Olexy, P.A.